

PATENT & TRADEMARK
DIVISION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

US PATENT & TRADEMARK
OFFICE

Applicant : Charles M. Milliren, et al.
Serial No. : 10/672,247
Filing Date : September 26, 2003
Title : PROTECTIVE FOAM WITH SKIN
Our Docket : 34563US1

REQUEST FOR REFUND

Mail Stop 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

On April 17, 2006, a Response "B" Under Rule 1.116 in the above-identified patent application was filed together with a Notice-of-Appeal and Pre-Appeal Brief Request for Review. A check in the amount of \$475.00 sufficient to cover the \$225 two-month extension of time fee and \$250 for the Notice of Appeal fee was submitted with this response, check No. 69347. A copy of said check No. 69347 is attached hereto.

The above-noted submission required a two-month extension of time because the shortened statutory response period expired February 16, 2006. Furthermore, because April 16, 2006 (two months from the expiration of the shortened statutory period) was a Sunday, the

I hereby certify that the attached correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Steven J. Solomon

Name of Depositor for Applicant(s)

June 14, 2006
Date

Signature of Depositor

above-noted submission was timely filed the next business day, Monday, April 17, 2006 with a two-month extension of time. Copies of the Notice of Appeal, Pre-Appeal Request for Review and the first page of the Amendment "B", all displaying certificate of mailing dated April 17, 2006, are also enclosed.


On May 1, 2006, our Deposit Account No. 16-0820 was erroneously charged a \$60.00 fee for fee code 2251, which is further described as "extension for response within 1st month". This fee was charged in error because all the necessary fees were already paid by check.

Please refund the \$60.00 charged in error to our Deposit Account No. 16-0820, Order No. 34563US1.

Respectfully submitted,

PEARNE & GORDON, LLP

1801 East 9th Street, Suite 1200
Cleveland, Ohio 44114-3108
Phone : (216) 579-1700
Facsimile : (216) 579-6073

By: 
Steven J. Solomon, Reg. No. 48719

Date: June 14, 2006

PEARNE & GORDON LLP

69347

04/17/2006 TEA.34563US1....

APPEAL, EXT OF TIME

475.00

*****475.00

PEARNE & GORDON LLP

1801 EAST 9TH ST., SUITE 1200
CLEVELAND, OH 44114-3108

THE HUNTINGTON NATIONAL BANK
CLEVELAND, OHIO 44115

8-15-410

*Four hundred seventy five and 00/100

DATE

AMOUNT

04/17/2006

*****475.00

COMMISSIONER OF PATENTS & TM'S
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

069347 041000153 01661660943

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)
Approved for use through xx/xx/200x. OMB 0651-000x
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>April 17, 2006</u></p> <p>Signature <u>[Signature]</u></p> <p>Typed or printed name <u>Steven J. Solomon</u></p>		Application Number	Filed
		10/672,247	September 26, 2003
		First Named Inventor	
		Charles M. Milliren	
		Art Unit	Examiner
		1771	Hai Vo
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>48719</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		<p><u>[Signature]</u> Signature</p> <p><u>Steven J. Solomon</u> Typed or printed name</p> <p><u>216-579-1700</u> Telephone number</p> <p><u>April 17, 2006</u> Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p>			
<p><input checked="" type="checkbox"/> *Total of _____ forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

34563US1

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22311" 1450" [37 CFR 1.8(a)]

on

April 17, 2006

Signature

Typed or printed
name

Steven J. Solomon

In re Application of

Application Number

10/672,247

Filed

September 26, 2003

For

Art Unit

1771

Examiner

Hai Vo

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))

\$ 500.00

☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:

\$ 250.00

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 16 0820. I have enclosed a duplicate copy of this sheet.

☒ A petition for an extension of time under 37 CFR 1.138(a) (PTO/SB/22) is enclosed.

↳ See accompanying Response "B" Under Rule 1.116

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 48719

Signature

Steven J. Solomon
Typed or printed name

216-579-1700

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34.

April 17, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/672,247
Applicant: Charles M. Milliren, et al.
Filed: September 26, 2003
TC/A.U.: 1771
Examiner: Hai Vo
Docket No.: 34563US1
Customer No.: 00116

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Response "B" Under Rule 1.116

Sir:

This Amendment is filed in response to the final Office action mailed November 16, 2005, and is being submitted with a Notice of Appeal. The period for responding to the Office action expired on February 16, 2006. Accordingly, applicants petition for and request a two (2) month extension-of-time up to and including April 16, 2006. Because April 16, 2006 was a Sunday, this paper and the accompanying Notice of Appeal are timely filed on the following business day, Monday, April 17, 2006. A check for \$475 is enclosed to cover the \$225 extension fee and the \$250 Notice-of-Appeal fee.

In the event the Examiner does not consider the following arguments persuasive, Applicants also have filed a Pre-Appeal Brief Request for Review, accompanying the enclosed Notice of Appeal.

Remarks begin on page 2 of this paper.

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Steven J. Solomon

Name of Attorney for Applicant(s)

April 17, 2006
Date


Signature of Attorney

51
APR 21 2006
PATENT & TRADEMARK OFFICE

PTO/SB/31 (04-05)
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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
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**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

34563U51

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on April 17, 2006

Signature [Signature]
Typed or printed name Steven J. Solomon

In re Application of

Application Number 10/672,247 Filed September 26, 2003

For
Art Unit 1771 Examiner Hal Vo

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ 500.00

- ☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ 250.00
- ☒ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.
- ☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 16-0820. I have enclosed a duplicate copy of this sheet.
- ☒ A petition for an extension of time under 37 CFR 1.138(a) (PTO/SB/22) is enclosed.
See accompanying Response "B" Under Rule 1.116
- WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/86)
- ☒ attorney or agent of record. Registration number AB719
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____

[Signature]
Signature
Steven J. Solomon
Typed or printed name
216-579-1700
Telephone number
April 17, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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04/24/2006 BABRAH1 00000011 10672247
02 FC:2401 250.00 DP
05/01/2006 DFLOYD 00000001 160820 10672247
01 FC:2251 60.00 DA
Adjustment date: 07/03/2006 SDENB081
05/01/2006 DFLOYD 00000001 160820 10672247
01 FC:2251 60.00 CR